

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JOHN BARNHARDT, ET AL

Plaintiffs

V.

CASE NO. 4:65-cv-1300-HTW-LGI

MERIDIAN MUNICIPAL SEPARATE
SCHOOL DISTRICT

Defendant

TRANSCRIPT OF STATUS CONFERENCE
VIA VIDEOCONFERENCE

BEFORE HONORABLE HENRY T. WINGATE
UNITED STATES DISTRICT JUDGE

May 17, 2023
Jackson, Mississippi

The proceedings were reported by a stenographic court reporter.
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REPRESENTING THE INTERVENOR:

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U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

ALSO PRESENT:

Dr. Amy Carter, Superintendent
Meridian Public School District

1 (May 17, 2023, 9:46 a.m.)

2 THE COURT: All right. Good morning.

3 Hello. Good morning.

4 MR. HOOKS: Good morning, Your Honor.

5 MS. VAUGHAN: Good morning.

6 THE COURT: This is John Barnhardt, et al, and United
7 States of America v. Meridian Municipal Separate School
8 District, et al. So let's see. Who do I have on this call?
9 Let's start off with the plaintiffs' side.

10 MR. CUSICK: Good morning, Your Honor. This is John
11 Cusick from the Legal Defense Fund.

12 THE COURT: Okay. Good morning.

13 Next.

14 MS. VAUGHAN: Good morning, Your Honor. This Aria
15 Vaughan from the United States.

16 THE COURT: All right. Good morning to you.

17 MS. SINGLETON: Good morning, Your Honor. This is
18 Natane Singleton also for the United States.

19 THE COURT: Okay.

20 MS. HOOKS: And Your Honor, good morning. This is
21 John Hooks. I represent the school district.

22 THE COURT: All right, Mr. Hooks.

23 MR. COMPTON: This is John Compton representing the
24 school district.

25 THE COURT: All right. Good morning.

1 DR. CARTER: Good morning, Your Honor. This is Amy
2 Carter representing Meridian Public School District,
3 superintendent.

4 THE COURT: Okay. Thank you. Good morning.

5 Anybody else? All right. Then I have six people on the
6 line. Now, the first question I have for you, since this is a
7 status conference that was scheduled by the school district, I
8 believe, the question is whether you-all have reached any
9 settlement on any of these matters.

10 So let me start with -- well, who wishes to start?

11 MS. HOOKS: Your Honor, this is John Hooks. I would
12 be happy to maybe lay a little bit of foundation and groundwork
13 on the answer to that question, if I may.

14 THE COURT: Okay. Go right ahead.

15 MS. HOOKS: Your Honor, you will recall -- the court
16 will recall that this is a long-standing desegregation case.
17 And back in 2019, the parties had worked very hard to come to
18 an agreement to resolve the matter. And for purposes of
19 convenience of the court and your clerks, in Document 158, the
20 LDF and the district presented a joint motion for preliminary
21 approval of the settlement agreement.

22 And in that document, Your Honor, we had set forth some
23 proposals for dates for the fairness hearing, et cetera, so
24 that as a matter of convenience that could move forward, I
25 believe in the fall of 2019. Your Honor, that motion is

1 currently pending. And while it was pending, the district and
2 Dr. Carter would be in a position to explain in detail more
3 about the reasons for wanting to reconfigure the schools
4 herself. But while that motion has been pending, last summer
5 the district realized that because of a lack of resources and
6 also a dwindling student enrollment that it would become
7 necessary to do some reconfiguration of the school district's
8 middle schools.

9 And so in Document 167, the district presented the court a
10 proposal to reconfigure some of the schools, which involved a
11 closure of Carver Middle School. The court heard some
12 testimony from concerned citizens at that time through a Zoom
13 hearing and so forth. That motion also is still pending.
14 Dr. Carter presented testimony at that hearing as well, and she
15 indicated to the court that she would be at some point coming
16 back before the court and seeking to reconfigure elementary
17 schools for the same reasons I described earlier, dwindling
18 enrollment, limited resources, et cetera, and significantly
19 very aging buildings, Your Honor, that are very expensive to
20 maintain. And so that day also now has come.

21 And in March -- I believe it was March 22nd -- Dr. Carter
22 wrote the court a letter that outlined her thoughts about
23 reconfiguring the elementary schools. And significantly, Your
24 Honor, it involved reopening Carver Middle School as an
25 elementary school, which had been something at that time, the

1 court might recall, was important to the community.

2 We have heard from the Department of Justice who has
3 indicated they have no opposition to this latest idea of
4 reconfiguring the elementary schools. And we had hoped that
5 the Legal Defense Fund today would indicate that it has no
6 opposition given the fact that the school district has been
7 attempting to accommodate the desire of some members of the
8 community to have some presence there in the building at Carver
9 Middle School.

10 So, Your Honor, that's kind of the lay of the land. And
11 we do have a proposed order we can submit to the court
12 regarding the latest ideas that Dr. Carter has. And I might
13 call upon her if she has anything to add, Your Honor, to
14 explain in further detail or correct anything I might have
15 said.

16 THE COURT: All right. Thank you. I have read these
17 matters, and I will call on her in just a moment. But I want
18 to know whether the Legal Defense Fund has any objections here.
19 I recognize that the Department of Justice does not, so let me
20 turn to the Legal Defense Fund.

21 MR. CUSICK: Sure. And thank you, Your Honor. And
22 we, the Legal Defense Fund, appreciate the court's willingness
23 to hold this status conference. We were the parties in jointly
24 with defendants asking for that. Our position is that, as
25 we've explained, that the pending modification motion, that one

1 that Mr. Hooks referenced first, ECF 167, that that may impact
2 the assessment of this new reconfiguration plan.

3 And we understand and appreciate the defendant's request
4 for us to take a position on that one. But as we've explained
5 to them and to you, Your Honor, today that we can't do so until
6 there's a ruling on that first motion to see if Carver Middle
7 School was properly closed, because some of the justifications,
8 at least from our understanding, on some of the reconfiguration
9 plans here might have different interests and might at some
10 points be a little bit in tension with some of the
11 justifications proposed previously that you heard at the
12 evidentiary hearing.

13 And so I think the purpose of us asking for the status
14 conference today was just to see if Your Honor had any
15 questions on that initial pending motion before you resolve
16 that. And then we are happy to, once that's resolved, to fully
17 be able to assess the proposed second modification here
18 relating to the elementary schools.

19 THE COURT: So then you want to hear the court's
20 ruling on the middle school before we start talking about the
21 elementary school; is that so?

22 MR. CUSICK: Yes, Your Honor.

23 THE COURT: All right. And with regard to the middle
24 school, you are still opposed to the actions taken by the
25 school system relative to the middle school; is that so?

1 MR. CUSICK: Relating to the Carver Middle School
2 closure?

3 THE COURT: That's correct.

4 MR. CUSICK: Yes, Your Honor. We maintain our
5 positions from the briefing and the evidentiary hearing.

6 THE COURT: But then the Carver Middle School, under
7 the plan for the elementary school, would be reopened, correct?

8 MR. CUSICK: From our understanding, it would be
9 reopened. And any of those details that we'll lean on
10 Dr. Carter and others to fill in, but that's our understanding.

11 THE COURT: So that doesn't have any effect on your
12 view about the middle school since the elementary school would
13 be reopened, and as I appreciated it, those who testified here
14 concerning the closure of Carver were concerned that the
15 closure was a closure that would affect the community because
16 Carver has such a storied history. But if it's going to be
17 reopened as an elementary school, wouldn't that speak to some
18 of your concerns and also its positioning there in Meridian on
19 the south side?

20 MR. CUSICK: Yes, Your Honor. But I think, again,
21 these are two separate actions, and so I think there still
22 needs to be a decision on the points for whether it was proper
23 to close Carver Middle School in the beginning. From our
24 understanding, even though, as you mentioned, there might be
25 students that are moved to the Carver building as the basis for

1 this reconfiguration plan.

2 In Dr. Carter's July 7th, 2022, letter that was sent to
3 the plaintiffs and the United States before the initial pending
4 motion, she asserted that teacher recruitments at Carver Middle
5 School had been especially challenging as a basis for the
6 closure. And indeed in Dr. Carter's declaration that was
7 submitted to the court in support of that identified teacher
8 vacancies, but we're not sure whether those same concerns are
9 still present here about the ability to recruit.

10 We also think that based on information and belief from a
11 recruitment flyer that we've seen that there's targeted
12 recruitment for trying to identify teachers at Carver
13 Elementary School now that there's been a principal that again,
14 from our understanding, has been hired.

15 And so there are a set of questions kind of on those that
16 there are concerns that were the basis for the closure of
17 Carver Middle School that we're not sure are still there or how
18 they're being addressed in addition to why there are
19 recruitment issues happening and whether all the teachers from
20 the other elementary schools would be transferred to that
21 school.

22 In addition to that, Your Honor also heard one of the
23 benefits that the district presented at that hearing that
24 moving the central office to the Carver school building would
25 be beneficial, but that too seems to be something that might

1 involve different considerations, and so I think, again, you
2 have to think of these as two separate actions.

3 And again, there's still a consent order and the district
4 still has obligations and shouldn't be making these decisions
5 before seeking court approval. That's, again, going on the
6 back end and asking for accommodations after the fact. And
7 that is counter to the consent order, to their obligations in
8 trying to seek the court's order before making any of these
9 determinations.

10 The board, from our understanding, has also already voted
11 to approve the reconfiguration plan again, and so that's,
12 again, another action that's being taken and planning
13 happening, which we understand that the school district needs
14 to do, but they are still binding under this consent order and
15 have obligations under the Constitution to seek the court's
16 approval in opportunities like this where schools are being
17 closed or there's reconfiguration plans before that's
18 happening.

19 THE COURT: Let me turn now to -- well, let me ask
20 the Justice Department. This department has stated that it has
21 no opposition. I imagine that's opposition to the middle
22 school matter as well as to the elementary school matter; is
23 that correct?

24 MS. VAUGHAN: That's right.

25 THE COURT: So again, no opposition means you take no

1 position with regard to the argument just made by Mr. Cusick,
2 nor do you take any umbrage towards the argument made by the
3 other side?

4 MS. VAUGHAN: Well, Your Honor --

5 THE COURT: You're just right there in the middle.

6 MS. VAUGHAN: In part, yes. I think at the previous
7 hearing regarding the closing of Carver Middle School, we did
8 agree with the Legal Defense Fund that there was much to be
9 desired about the process in which the school district
10 undertook with respect to the closing of Carver, but ultimately
11 we did not oppose the closing.

12 With respect to the closing of -- or excuse me, the
13 reconfiguration plan for the elementary schools, I think we
14 would appreciate hearing the defendant's response to the Legal
15 Defense Fund with respect to how they view the process and
16 whether it met the obligations of the court orders in this
17 case.

18 THE COURT: So then while you have no objections,
19 you're talking about the middle school matter but not
20 necessarily the elementary school; is that it?

21 MS. VAUGHAN: Your Honor, we don't oppose the
22 defendant's motions on either account, but we agree with the
23 Legal Defense Fund that the process for the closing of Carver
24 Middle School could have been done in a better manner. And I
25 believe that the defendants recognized that as well.

1 THE COURT: Well, yes, they do. They mentioned that
2 the last time, and I mentioned it too, because they did not
3 seek the court's approval before they went down that road. But
4 nevertheless, at present, you do not oppose either one of the
5 approaches on the middle school or the elementary school. Does
6 that mean --

7 MS. VAUGHAN: That's correct.

8 THE COURT: But now let me ask more. Does that
9 nonopposition mean the same thing as approval? I'm shifting
10 from the passive to the active.

11 MS. VAUGHAN: I understand, Your Honor.

12 THE COURT: So does that mean that you have -- you
13 say you have no opposition, but I'm asking whether you have
14 approval.

15 MS. VAUGHAN: Your Honor, I am not authorized to say
16 that we approve. I'm authorized to say that we do not oppose.

17 THE COURT: That means that you -- well, I guess I
18 can't get any more definition on that.

19 So then with regard to Mr. Cusick -- am I pronouncing that
20 correct, Mr. Cusick?

21 MR. CUSICK: Close enough. Cusick. Thank you, Your
22 Honor.

23 THE COURT: Cusick. Okay. And with regard to his
24 questions that he also raised in the brief, am I now advised
25 that you-all don't have any such qualms as manifested by

1 Mr. Cusick?

2 MS. VAUGHAN: Your Honor, because we did not oppose
3 the closing of Carver Middle School, we're not in the same
4 position as the Legal Defense Fund in seeking an order on that
5 earlier motion. So we do not oppose the reconfiguration plan
6 for the elementary school.

7 THE COURT: Okay. And, of course, this is after you
8 have digested all of the objections that have been raised by
9 Mr. Cusick.

10 MS. VAUGHAN: (Nods head up and down.)

11 THE COURT: One of which is the possibility, as he
12 frames it, of a return to segregation. I'm still with you.

13 MS. VAUGHAN: Your Honor, I did not -- I did not -- I
14 do not believe that that was precisely what Mr. Cusick was
15 raising and at this point do not have evidence to show that
16 this reconfiguration plan would undermine the district's
17 efforts at desegregation given the population -- the current
18 population of the school district. If I'm mistaken, I would
19 love for you and Mr. Cusick to correct me.

20 THE COURT: Well, let's see. Mr. Cusick, what about
21 it? In your papers, did you not warn of the possibility of a
22 return to segregation?

23 MR. CUSICK: That's correct, Your Honor. The
24 presumption until the court makes unitary status, they have the
25 obligation to show that the closing was proper, and so that's

1 why we had the briefing and the evidentiary hearing to maintain
2 those positions, again, related to the initial motion, not the
3 reconfiguration of the elementary schools that Mr. Hooks and
4 Dr. Carter reference.

5 THE COURT: So you still make this same argument
6 about the danger of a return to segregation; is that correct?

7 MR. CUSICK: If I'm understanding Your Honor
8 correctly, yes, we maintain the same positions in the briefing
9 and the evidentiary hearing. And that's why because even
10 though, as you identified, that there might be a new student
11 population that goes in under this reconfiguration plan, there
12 are different sets of considerations that might implicate that.
13 And that's why we've asked for this status conference to see if
14 there's any other questions Your Honor might have following the
15 briefing and evidentiary hearing on that initial motion for
16 Your Honor's ruling.

17 THE COURT: All right. Thank you.

18 Now then, back to Justice. So they're still maintaining
19 this same objection, and they're still contending that there's
20 a latent danger here of this return to segregation,
21 notwithstanding what the percentages are in these schools of
22 black students.

23 And Mr. Cusick, is that correct that you have pointed out
24 that the percentages would rise and deposit additional students
25 all in one venue, almost up to the, what, 92nd percentile or

1 something like that?

2 MR. CUSICK: Yes, Your Honor. We, in the briefing,
3 identified the three factors that Your Honor has identified
4 about: One, not furthering desegregation of the previous dual
5 system; two, that ensuring that the justifications are not
6 racially motivated based on what's been considered; and the
7 third, it wouldn't have a disproportioned impact on the high
8 concentration, Your Honor's last point of black students in
9 other parts being moved out of Carver Middle School.

10 THE COURT: Now then, I guess it's time to go to the
11 superintendent. Is the superintendent ready?

12 DR. CARTER: Yes, sir. Good morning again.

13 THE COURT: All right. Good morning to you. Now,
14 how much of an interlock do we have between the dilemma
15 concerning the middle school and the closing of Carver for the
16 middle school and the opening of Carver for the elementary
17 school? I know some renovations have to be done. And then
18 after renovations then there's supposed to be a movement back
19 into Carver. Now, tell me about the interlock between the
20 middle and the elementary schools on those points.

21 DR. CARTER: If I'm understanding your question
22 correctly, initially when the recommendation was made to close
23 Carver, there was concern by community members that I did not
24 ask them about the closure. I did not get their input. And we
25 came before the court. And the conversation was also magnified

1 that I did not necessarily take the right approach.

2 Being able to explain to the courts and explain to the
3 community that at that time it was really about teacher
4 recruitment, let's fast-forward almost a year later and here we
5 are. We've had conversations with those concerned citizens.
6 They actually had a small roundtable meeting where I sat down
7 with them and I explained the proposed plan to reopen Carver as
8 an elementary school, and they were actually ecstatic.

9 They were excited at the fact that now what we would do is
10 take two schools in different parts of town. We would take
11 Oakland Heights Elementary School. We would pick up that
12 elementary school, along with those teachers, those families,
13 and we would relocate them, I would say, probably a little over
14 a mile to Carver Elementary School. We would take those
15 students from T.J. Harris and divide those students between the
16 new Carver Elementary School and Crestwood Elementary School.
17 And that's probably half a mile distance between those two
18 campuses.

19 So in conversating with the concerned citizens, they were
20 excited about the fact that there would now be families located
21 in that area, that the building would now be staffed, because
22 we would be taking teachers from those other elementary schools
23 that we're closing, and those families, those teachers, would
24 be relocated in that area.

25 We have really been proactive in planning. We realize,

1 for instance, when you're converting a middle school to an
2 elementary school that you would need to ensure that there are
3 restrooms in the kindergarten and first grade classrooms. So
4 the board declared a state of emergency in order for us to be
5 able to move forward with those renovations.

6 Again, we've been able to have conversations with some of
7 the very witnesses that were on the call, Mr. Markham, Tracey
8 Clark Washington, and they were a part of the discussions
9 around reopening Carver Elementary School. So I don't see an
10 issue with the interlock other than we just need to be able to
11 close, I think, one issue and move forward with the other, from
12 my perspective. Did I answer your question, Judge Wingate?

13 THE COURT: So you said that you don't see any
14 interlock. So only Carver Middle School, you would still be
15 proceeding apace if affirmed in that matter to close it, is
16 that so, and then renovate it and reopen it later?

17 DR. CARTER: Yes, sir. That's what we're
18 recommending, that we move forward, because last year we
19 struggled, honestly, with finding secondary teachers to staff
20 that building, that campus. Across our three middle school
21 campuses, we were educating less than a thousand children,
22 which made it very difficult to maintain those buildings.

23 I maintained to the public that we were not closing Carver
24 because of safety issues or because of the part of town it was
25 in. We were closing Carver because of the actual difficulty in

1 staffing in that particular building.

2 So you wonder why not have the same concerns with staffing
3 and teacher recruitment now? We've taken a staff, Oakland
4 Heights, that typically has 90-plus percent retention, and we
5 have pulled that staff together and said, Guys, the condition
6 of your current facility is not acceptable. Children are
7 having to walk through water. Children are having to not play
8 outside because of the gun violence in that area.

9 So the recommendation that I proposed to the board is
10 allow us to close Oakland Heights, relocate those students to
11 the Carver building, which was a better facility. And so the
12 educators, along with the families, we met with them. We met
13 with the teachers. We met with community members. We had
14 honest conversation, which is what I wish I had time to do last
15 year. We just didn't have the time with the situation we were
16 in.

17 This year, I took the court's advice and the advice of
18 counsel and said, You know what, let's have the discussion,
19 because it's important for me to know what the views and the
20 feelings are as we do the elementary reconfiguration.

21 THE COURT: In the statistics that you have provided
22 to me, you have highlighted the reduction in the number of
23 students who are in middle school and I imagine who are going
24 to be available for the elementary school too. So you have
25 utilized that as one of the factors that has weighed in on your

1 reconfiguration. And then you have also talked about teacher
2 retention and hiring. You've gone into that.

3 Now, in Mr. Cusick's brief he had raised some questions
4 about what efforts the school system has utilized, especially
5 with regard to hiring and retention of staff. How has that
6 prospered since that brief came in? Since he filed his brief
7 raising these particular questions, you filed a rebuttal after
8 that that was filed by Mr. Hooks as a rebuttal. Now, what is
9 the situation now with retention and hiring of faculty?

10 DR. CARTER: Our most recent retention numbers showed
11 district-wide that we average around 82-83 percent of retaining
12 our teachers. In the Oakland Heights building, we typically
13 retain 90-plus percent. As we move forward with the proposed
14 plan for reconfiguration, if approved, we're only showing that
15 out of the upcoming faculty at Carver, the elementary faculty,
16 that we would only be showing three vacancies as of today, and
17 we have a plan for filling those.

18 The district has been very aggressive with teacher
19 recruitment. We've partnered with Mississippi State
20 University. We've partnered with the state department on
21 teacher residency programs. And what that has done, it's
22 afforded us to take our teacher assistants who are currently in
23 classrooms, support them in becoming licensed educators while
24 they work towards their master's.

25 Judge Wingate, if I knew you'd ask about this, I would

1 have graduation photos of the seven, eight educators that
2 became a part of this most recent graduating class of educators
3 in Meridian. So we've been very aggressive with partnering
4 with local universities. We can see the fruit of that labor in
5 our elementary schools where we have worked with local
6 agencies.

7 We've put a level of support around teachers -- aspiring
8 teachers, and they are reaping the benefit of that and so is
9 our city because we are seeing an increase in educators who are
10 becoming licensed as well as committing and dedicating their
11 lives to the children of Meridian.

12 THE COURT: I've read all your submissions or
13 submissions submitted on your behalf. Since those submissions,
14 have there been any other statistical changes of which the
15 court need be aware in all of the --

16 DR. CARTER: Not to my knowledge.

17 THE COURT: -- various categories? Go ahead. I'm
18 sorry.

19 DR. CARTER: Not to my -- I apologize as well. Not
20 to my knowledge. I would love to be able to know exactly which
21 ones. If you're looking at the most recent letter regarding
22 the student projected enrollment --

23 THE COURT: I do recall --

24 DR. CARTER: -- Carver Elementary would be our
25 largest elementary school. Again, we're excited about the

1 leader that's been chosen for that building. She was an
2 educator in that building for 15 years as a middle school
3 teacher. She grew up on that side of town. And she was once
4 the district teacher of the year.

5 So the community is very excited to welcome her back to
6 that side of town. The parents are relieved to see someone who
7 grew up in the Boys and Girls Club in that area. So I wouldn't
8 say we've had some changes in the stats as much as putting the
9 right people in the right seats to ensure that the level of
10 education and the support of the community is strong as it
11 relates to rallying around the new Carver Elementary School.

12 THE COURT: So do you anticipate any opposition?

13 DR. CARTER: Actually, the people who I thought would
14 oppose were the people that I met up with up front. I sat down
15 with the very witnesses that LDF presented before the courts
16 last year and had conversations with them. You may remember,
17 Judge Wingate, Mr. Markham was my former principal when I first
18 started in Meridian. And so he was one of the first calls I
19 made and asked if he would come sit down, talk with me, in a
20 group of people at a roundtable discussion of what concerns
21 they had regarding any elementary reconfigurations.

22 They were pleased about Carver being reopened as an
23 elementary school. They were pleased about the Harris lower
24 campus now becoming a Little Wildcat academy where we would
25 educate four years old and expand to three year olds

1 eventually. And they were pleased that the Harris upper campus
2 would now be the proposed central office.

3 What the community appeared to be concerned about the most
4 is a true plan to preserve closing buildings. If you live in
5 our community, you know that any time you have decline in your
6 enrollment, any time you have adjustments with companies that
7 are moving in and moving out, the community becomes very
8 concerned about vacant buildings or areas of town. And so the
9 district is trying be very proactive in saying, You know what,
10 we can't continue to operate these buildings at full capacity,
11 but what we can do is have conversations and discussions around
12 how to repurpose them in a way that does not contribute to
13 declining community appearance.

14 THE COURT: Mr. Cusick, on the matter of the middle
15 schools, the ruling that you seek on that particular matter,
16 before we move to the elementary schools, do you still have
17 support from the community in your opposition to the closure of
18 Carver as a middle school?

19 MR. CUSICK: Yes, Your Honor. From the people we've
20 spoken to, they would like a ruling on that initial motion.

21 THE COURT: Do they have different grounds now than
22 what they expressed before as to why they were opposed to the
23 closure of Carver?

24 MR. CUSICK: I just want to make sure I understand.
25 Your Honor is asking if there are any additional or changes in

1 the reasons why they -- or the people who testified opposed it?

2 THE COURT: Or changed in perspective because from
3 what the superintendent has said is that she doesn't really see
4 any opposition, but you're saying you still maintain opposition
5 to the middle school matter.

6 MR. CUSICK: Yes, Your Honor. I think this just goes
7 back, again, to the initial focus, the law that the district
8 still has an obligation to show that that middle school closure
9 was properly done and that they meet that burden, and that's
10 why we had a full evidentiary hearing and briefing on these.

11 I think this is another reason -- and I don't want to
12 downplay or anything the efforts that Dr. Carter and others
13 have done -- but in our status conference motion to the court,
14 we emphasized that one of the reasons if Your Honor rules on
15 that initial motion first is it could ultimately resolve the
16 need for any additional thing on the second motion, because
17 perhaps after Your Honor's ruling on that and after our
18 conversations with the district and community members, we're
19 not sure if there would be opposition or not.

20 And so that's why we think that the initial motion needs
21 to be decided first, and then that way we can go and continue
22 those conversations with the school district so there might not
23 need to be any unnecessary briefing or perhaps, depending on
24 those conversations with community members and so forth, if
25 there is a need for an evidentiary hearing or for testimony and

1 other additional members coming before the court and under
2 oath, that could be something, but I think it -- again, it
3 underscores the need and why we asked for the status conference
4 because we maintain that position and some of the community
5 members we spoke to and speak to are still hoping for a
6 decision on the middle school.

7 THE COURT: So what is your suggestion for an
8 approach to resolve the middle school matter at this point?
9 Are you asking for an evidentiary hearing?

10 MR. CUSICK: On the closure of Carver Middle School?

11 THE COURT: That's correct.

12 MR. CUSICK: At least for private plaintiffs, I think
13 we rest on the briefing and the evidentiary hearing that the
14 court held in August of 2022, unless Your Honor has any
15 additional questions or suggestions.

16 THE COURT: And relative to the testimony that the
17 court received at that time, are those same persons still of
18 the same mind-set that they were at the time that they
19 testified or, as the superintendent has stated, that they now
20 may have changed their perspectives?

21 MR. CUSICK: My understanding is that they still
22 would like a ruling on the middle school. I think, depending
23 on what the court thinks and finds for the reasons and evidence
24 we presented there, that could potentially mitigate or resolve
25 some of their concerns, but they still are hoping for a

1 decision on that one.

2 If there is some benefit to asking for their input or how
3 it might change, I don't think we would be opposed to that.
4 But I think this separate action is an entirely different
5 action than the first one, and so I think we at least don't
6 want to conflate the two until there is a motion before the
7 court. And that's why we think the initial motion should be
8 decided first.

9 THE COURT: Mr. Hall, what do you think about this?

10 MS. HOOKS: I'm sorry, Your Honor?

11 THE COURT: Mr. Hooks. I'm sorry. I said Hall.

12 Mr. Hooks.

13 MS. HOOKS: Yes, sir. Well, as I was listening to
14 Mr. Cusick, I couldn't help but wonder, with all due respect,
15 who he portends to speak for or on behalf because Dr. Carter
16 very methodically took the concerns that were expressed in and
17 around the closure of Carver Middle School by both the
18 Department of Justice and the Legal Defense Fund and very
19 deliberately and intentionally did all of the things that they
20 suggested should have or could have been done last time and
21 addressed those issues and talked to those very people, and her
22 report to the court today is that there were no concerns that
23 she talked with in terms of community members.

24 But at the same time, the idea, though, if I could go back
25 to looking just at the desegregation issues, in that motion,

1 which is Document 173, which I think is our rebuttal, the
2 district set out the racial percentages that resulted from the
3 two new configurations of the middle schools. And Your Honor,
4 those track very closely the district-wide racial percentages
5 of the district at the time, which happened to be almost
6 exactly what they are today.

7 So I'm just at a loss in terms of how I look at it or
8 analyze it to see how there could be a resegregation issue with
9 regard to any of the actions the district undertook. I realize
10 there might be some members of the community out there who just
11 don't -- for whatever reason they don't want change. But we're
12 not really here on that. I mean, we're here on whether there
13 are desegregation implications to these decisions that
14 negatively impact the district's desegregation obligations.
15 And the racial percentages don't indicate in any way that there
16 are.

17 And I also would say finally, Your Honor, that with regard
18 to the issues being separate and distinct, I don't see it that
19 way, with all due respect, because what the major concerns were
20 last time were that you would have an empty building there, as
21 Dr. Carter said, which would be perhaps considered a negative
22 implication to the community in terms of the appearance and
23 attractiveness of the facility and so on.

24 Well, now, Dr. Carter has brought a solution to that
25 problem with reconfiguring the middle school, so there will be

1 life in the building. So I don't understand what the issues
2 would be there that would survive today with this latest
3 proposal.

4 THE COURT: Mr. Cusick, you're the one who first said
5 something about an evidentiary hearing possibility. If the
6 court went that route and allowed an evidentiary hearing, are
7 you saying that you would have a significant body of citizens
8 who would want to come and raise their voices in opposition to
9 the middle school matter?

10 MR. CUSICK: I think that is something we'd have to
11 go back to the community and talk through. I think, again,
12 this goes to the initial point we talked about that the
13 district is still under a consent order and, in respect, has
14 defied that by moving forward before seeking the court's
15 approval. That's consistent with the briefing that we have
16 included.

17 They needed to meet their burdens before making that
18 initial middle school closure, and that's the reason why,
19 unless they're withdrawing that initial motion, why we're still
20 asking the court for the two -- you know, we do see them as
21 being interlocked, that you can't just necessarily move
22 different sets of students into and out of.

23 We've heard from the district that student enrollment at
24 Carver was a justification for closing that building, as Your
25 Honor heard during the last evidentiary hearing. That's now

1 one of the justifications for the other schools that's been
2 presented and now they're going back to Carver. You've heard
3 about the inability to do teacher recruitment in those. And
4 that's still something that might come up.

5 And so we think of these as different sets of
6 considerations, and they are separate actions. They're more
7 than eight months apart. And I think this is why we think if
8 Your Honor decides that the district has met their burden and
9 can justify the modification, that's one of the reasons we
10 asked for this status conference, because if that is shown we
11 don't think it's necessary potentially for the district to file
12 the reconfiguration motion and then to brief it when perhaps,
13 if that initial motion is resolved, then that will allow us all
14 to talk through and to be in dialogue and to fully assess that
15 after Your Honor's weight of the evidence that was presented
16 and heard. And so that's, again, why we asked for this status
17 conference today.

18 THE COURT: Mr. Cusick, do you need to submit any
19 additional information to this court on the middle school
20 matter?

21 MR. CUSICK: Not at this time, Your Honor.

22 THE COURT: Are you satisfied with what you've
23 submitted thus far?

24 MR. CUSICK: Yes, Your Honor.

25 THE COURT: All right. And the other parties, are

1 you-all satisfied with what you've submitted thus far on the
2 middle school matter? Can I hear from you whether you are
3 satisfied or not satisfied what you've already submitted?

4 MS. VAUGHAN: Your Honor, the United States is
5 satisfied with what we've submitted.

6 THE COURT: Now, let's see, when you submitted
7 something before, were you right in the middle at that time?

8 MS. VAUGHAN: I'm sorry, Your Honor?

9 THE COURT: You have no opposition, and so the -- you
10 really didn't submit anything. You just submitted, I think, a
11 pleading that says that the United States has no objections; am
12 I correct -- no opposition. I'm sorry.

13 MS. VAUGHAN: Correct, Your Honor. And then after
14 the evidence was presented at the hearing, the United States
15 confirmed that we didn't change our position on the closure of
16 Carver Middle School.

17 THE COURT: Okay. Now then, have I heard from
18 everybody on these points? I don't think I have. You were
19 about to say something. Go ahead.

20 MR. HOOKS: Your Honor, the school district has no
21 additional documentation or information to put before the court
22 with regard to the middle schools.

23 THE COURT: Okay. And then is anyone asking for an
24 evidentiary hearing on the middle school relative to any
25 alleged changes? Is anyone asking for that? Mr. Cusick?

1 MR. CUSICK: No, Your Honor.

2 THE COURT: You're not asking for that?

3 MR. CUSICK: (Shakes head from side to side.)

4 THE COURT: Okay. And I don't hear anyone else
5 saying anything. If that's the case that everyone is going to
6 rely on what has been submitted thus far and on the testimony
7 that the court heard at the evidentiary hearing on the middle
8 school, after that, Mr. Cusick, you're saying that on behalf of
9 your client you might have some sort of announcement on the
10 elementary school, but you don't know exactly what it's going
11 to be at this point. But whatever announcement it is, it might
12 not involve additional briefing; is that fair?

13 MR. CUSICK: Yes. That's right, Your Honor. We
14 think if at the time, after Your Honor weighs in on that,
15 depending on resolution of that and as one of the bases we
16 didn't want any unnecessary briefing or evidentiary hearing on
17 the second reconfiguration plan because we think that the first
18 one should be decided before that.

19 THE COURT: My last question -- possibly my last
20 question. I better not say last. But anyway, another question
21 is this: You have emphasized that the school system did not
22 seek approval from the court to pursue its new plan which
23 involved the closure of Carver and the transfer of students and
24 the notification of the parents relative to all of that. Is it
25 your contention that that factor alone could serve as a basis

1 for the court to cast a jaundiced eye on this plan because it
2 was not preapproved?

3 You have raised this in all of your papers more than one
4 time. So then what are you contending to be the most severest
5 impact of that failure to secure permission? Are you saying
6 that failure by itself could wreck this plan? Are you saying
7 that at all? I didn't see where you flushed it out as just one
8 area of your argument. You always sort of aligned it with some
9 other factors. But you certainly expressed some angst at the
10 school system not securing permission beforehand. You've even
11 said as much today. Now then, are you saying that that factor
12 alone could work against the school system's plan and its
13 potential adoption?

14 MR. CUSICK: Yes, Your Honor. I think it fits in
15 with the second factor that the court looks to potentially on
16 whether decisions were racially motivated, and I'll turn the
17 court's attention to the Arlington Heights factors that rely on
18 circumstantial evidence of potential procedural departures that
19 any failure to abide by rules and regulations or a departure of
20 those could be used as evidence to assess any motivations.

21 Now, I think the reason that we keep raising this and
22 bringing it up is because there is still an active
23 desegregation consent order that the district has to abide by.
24 And so that's why before when we were talking about the process
25 points and why a decision on this motion is so necessary is

1 because of that active consent order, the district still has to
2 show that the school -- Carver Middle School was properly
3 closed and to meet their burden.

4 And so I don't think we take a position on the weight and
5 defer to the court on whether it's given any probative value,
6 but I do think that -- I at least point the court to potential
7 departures in procedures or following rules or regulations.
8 And here obviously a consent order does fit in with the
9 Arlington Heights framework that's used to assess intentional
10 discrimination. Again, not to say that that's happening
11 specifically here. But there is the factor in this context
12 about whether any decision was motivated for racial reasons,
13 and I think that could be an area where that fits into.

14 THE COURT: Okay. Now, there are two persons on the
15 call from whom I have not heard anything.

16 Now, Terri, the lady who is in the middle at the bottom.

17 THE COURTROOM DEPUTY: Ms. Singleton.

18 THE COURT: And her position?

19 THE COURTROOM DEPUTY: She is with the DOJ.

20 THE COURT: Okay. Ms. Singleton, are you weighing in
21 on this too?

22 MS. SINGLETON: No, Your Honor. Ms. Vaughan is
23 speaking for the United States today.

24 THE COURT: And then the gentleman up in the far
25 right-hand side of my screen.

1 THE COURTROOM DEPUTY: Mr. Compton. He's
2 representing the school district.

3 THE COURT: All right. Mr. Compton, do you have
4 anything else --

5 MS. COMPTON: Yes, sir, Your Honor.

6 THE COURT: Do you have anything else you're adding?

7 MR. COMPTON: Yes, sir, Your Honor. In all due
8 respect to the court, and I know I'm fixing to travel down a
9 slippery slope here and may get myself in trouble, but in 2019,
10 we filed a joint motion for consideration to come out of our
11 desegregation order, with LDF agreeing to that. The court has
12 not been able to rule on that.

13 The district has not -- Dr. Carter, in trying to run the
14 district efficiently as she can, had to make some decisions and
15 felt like she couldn't continue to wait and file a motion and
16 wait. We don't know how long before the court could get to it.
17 She needed to make changes in the district. That is the reason
18 she went forward with what she's done and why the school board
19 has gone forward because we had that underlying motion -- joint
20 motion to seek unitary status with LDF. And so I just wanted
21 to bring that out.

22 And again, all due respect to the court and your calendar
23 and your time, I'm not trying to cast stones or pass blame
24 anywhere. I just wanted the court to realize that Dr. Carter
25 is trying to run a school district in realtime and make her

1 decisions that she sees best for the district and for the
2 children of the district.

3 THE COURT: All right. Thank you.

4 Dr. Carter, what are the contemplated moves that are
5 necessary for you to make before the new school year and time?

6 DR. CARTER: Judge Wingate, the contemplated moves
7 entail us being able to ensure that Carver Elementary is ready
8 to receive students before the start of the school year, which
9 is August 8th. We have been aggressively planning and
10 preparing for that because we did not know if we would get a
11 status call prior to the start of school. We did not know if
12 we would have a ruling prior to the start of school.

13 We have already touched based with staff members. We've
14 already walked them through the building, showed them the
15 potential of the new location. We've already started plans
16 regarding renovations.

17 Again, the community did not want the building to sit
18 empty, so it was our hope to go ahead and be aggressive after
19 they gave us their blessing. When I say "they," the same
20 concerned citizens that Mr. Cusick is referencing were some of
21 the same people we had conversations with. They've been at
22 school board meetings. They've heard the plans regarding us
23 moving forward.

24 Honestly, it all comes down to efficiency. And I
25 appreciate Mr. Compton's comments. We're at a place now where

1 we have some major renovation needs. Children are walking
2 through buildings where they have to walk through water. I can
3 go on and on with the needs.

4 We have funding opportunities to be able to move forward
5 with making some major renovations. We just could not afford
6 to renovate the number of buildings that we were operating.
7 Some of our buildings had less than 200 children in them. So
8 to be able to put the children in a nicer facility, do upgrades
9 regarding safety, security, instructional spaces, I can go on
10 and on, we just needed to be able to make a decision.

11 Judge Wingate, I've been at this about six years now. And
12 we filed a motion in 2019 to be unitary status. And every time
13 the community reaches out, even some of the people that LDF
14 represents, they reach out and they ask me, Where are we with
15 unitary status? And I simply say to them, We are waiting on
16 next steps from the courts.

17 So where are we with being ready? We're going to be ready
18 to open school if we're given permission to do so.

19 THE COURT: Okay. Then here is what the court is
20 going to do on this point. One, we are going to rest on the
21 briefs that already have been submitted. We're going to rest
22 on the evidentiary hearing the court has already heard. The
23 court is going to issue an opinion within two weeks, either
24 orally or written. So if the court has not been able to finish
25 the written opinion, I will simply do a telephone call and

1 announce the opinion orally so everybody will know where the
2 court is. That will be on the middle school matter. And then
3 immediately thereafter, the court will hold a status conference
4 on the elementary school plan to see how it's affected by
5 whatever ruling the court has made on the middle school.

6 If there are any other developments, the court needs to
7 know about them as soon as possible. If there are other key
8 witnesses whom either side wishes to call that the court has --
9 whom the court has not heard from before, the court will set a
10 time for it within this two-week period, because at the end of
11 the two-week period, the court wants to make its determination
12 and not stretch this time out any more so as to afford the
13 school district ample opportunity and time to make whatever
14 arrangements and modifications that it might need to make to
15 the system, if necessary.

16 I can't say what that will be right now because I haven't
17 formulated the opinion yet, but I will go ahead and do that
18 forthwith.

19 Now, are there any questions? Let's start off --

20 MR. HOOKS: Yes, sir. Your Honor --

21 THE COURT: Yes.

22 MR. HOOKS: Your Honor, if I may, on behalf of the
23 school district, is there any way that the school district can
24 urge the court to look at Document 158, the joint motion for
25 preliminary approvment of the settlement agreement?

1 THE COURT: I think I've seen it, but yes, I can. So
2 what's the purpose of doing that?

3 MR. HOOKS: The purpose would be for us to move
4 forward with getting the dates back before the court to
5 schedule our fairness hearing so that the case overall -- the
6 case in chief is resolved, Your Honor.

7 THE COURT: Okay. I will look at it.

8 Any objections? Mr. Cusick, do you have any objection to
9 my looking at that?

10 MR. CUSICK: No, Your Honor. As we flagged in the
11 status conference, we're still committed to moving forward with
12 that after we hear Your Honor's ruling on this Carver Middle
13 School closure.

14 THE COURT: Okay. Justice Department?

15 MS. VAUGHAN: We agree that it would be efficient for
16 the court to move forward and look at the pending motion 158.

17 THE COURT: Does anyone else have anything else you'd
18 like to add to this conference before we terminate it? I will
19 reduce this to a short order and file it later on this
20 afternoon. Now, is there anything else I need to take up on
21 these matters? Anybody?

22 DR. CARTER: Judge Wingate, if I may, this is
23 Superintendent Carter. Just to close, I would implore you or
24 plead with you to consider the implication that a ruling
25 against the district would have on the students and the

1 families in Meridian. And I hope I'm not out of order in my
2 plea to you. We've had middle school students that have
3 successfully transitioned to their new location. They've been
4 there a year. They're on the cheer squad. They're part of the
5 chess team.

6 I could go on and on about the positive experience our
7 middle school students have had being in buildings where they
8 were properly staffed. We have a concept called one Wildcat
9 across two campuses or one middle school across two campuses.
10 So I'd like to plead for you to consider the implications that
11 it would have if I have to completely revamp and move those
12 students back into Carver Middle School. It still wouldn't
13 correct the staffing issues at the middle school level.

14 I do have momentum and excitement going around the
15 proposed plan for elementary reconfiguration because I'm taking
16 students out of buildings where the conditions were pretty much
17 deplorable. I'm concerned about if I have to come back to
18 those teachers and say, I was putting you in a better building,
19 but now I won't be able to. I just don't know what
20 implications that would have on our city and the impact on our
21 children.

22 My job as superintendent is to keep the needs of our
23 children first and foremost. And so again, I would just like
24 to plead for you to consider those things as you make your
25 ruling. Thank you for having a moment of your time just to

1 offer closing comments regarding that.

2 THE COURT: Mr. Cusick, since you asked for the
3 status conference and since Dr. Carter has made her plea on one
4 side bearing her perspective, do you wish to give a closing
5 statement on your side?

6 MR. CUSICK: No, Your Honor. I think this just,
7 again, underscores that until the process is in place, this is
8 why we mentioned in our briefing that the defendants in this
9 case had an obligation and should have sought approval before
10 doing so. We understand some of these practical concerns. But
11 this is another reason why, whether they've met that burden for
12 the closure and why we asked for this status conference. We
13 look forward to hearing from the court and continuing the
14 conversations with defendants afterwards on the reconfiguration
15 plan and the joint approval settlement motion.

16 THE COURT: Okay then. All right then. Thank you
17 all very much. And I will craft a short order this afternoon
18 and file it that will give us the timetable that we'd be
19 working from. And after I've made my ruling, I'll be back in
20 contact with you. Thank you so much. All right. I'm signing
21 off.

22 (Proceedings concluded at 10:41 a.m.)
23
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25

CERTIFICATE OF REPORTER

I, Margaret Wasmund, RDR, CRR, CRC, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated this 21st day of May 2023.

Margaret Wasmund
MARGARET WASMUND, RDR, CRR, CRC
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